

IOWA
PART B, IDEA

**REVISED POLICIES PURSUANT TO THE AMENDMENTS OF 2004 TO THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AND ITS'
ATTENDANT REGULATIONS.**

THESE REVISED POLICIES ARE BEING SUBMITTED TO THE US DEPARTMENT OF
EDUCATION SO THAT IOWA'S POLICIES AND PROCEDURES ARE IN ACCORD WITH
FEDERAL REQUIREMENTS.

THE DEPARTMENT IS PROVIDING OPPORTUNITY FOR REVIEW AND COMMENT UPON
THESE REVISED POLICIES THROUGH THE IOWA DEPARTMENT OF EDUCATION'S WEBSITE.

AN COMMENT FORM IS INCLUDED IN THIS DOCUMENT WITH AN AUTOMATIC E-MAIL
LINK TO SUBMIT COMMENTS TO THE DEPARTMENT.

I. FREE APPROPRIATE PUBLIC EDUCATION

It is the policy of the State of Iowa to provide a free appropriate public education (FAPE) for all resident children with disabilities in this state, in programs supervised by, and meeting standards established and approved by the State Education Agency (SEA). This declared policy is consistent with the State's mandate for special education law enacted July 1, 1974, and as subsequently amended.

A free appropriate public education is defined to include regular and special education and related services which:

1. are provided at public expense, under public supervision and direction, and without charge to the parent;
2. meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
3. include preschool, elementary school, secondary school education; and,
4. are provided in conformity with the individualized education program (IEP).

Existing state law establishes the policy of requiring that local education agencies (LEAs) and State operated educational programs make provisions for a free and appropriate public education sufficient to meet the needs of all children requiring special education. The law defines children requiring special education as persons under twenty-one years of age, including children under five years of age, who face obstacles in obtaining an education because of physical, mental, communication or learning disabilities or who are behaviorally disordered, as defined by the rules of the Department of Education.

Current State law mandates the availability of a free appropriate public education for all children with disabilities from birth to 21 years of age and to children requiring special education who have been suspended or expelled from school. Individuals who have been convicted as adults and are being served in adult prisons are entitled to FAPE if prior to their incarceration they were identified as eligible individuals or had IEPs. FAPE does not apply to incarcerated youth ages 18 to 21 who had not been previously identified as an eligible individual and did not have an IEP. There are special factors related to services for incarcerated youth outlined in Iowa Rules of Special Education.

Services are provided to any individual with exceptional needs even if he or she is progressing through the grades if the instruction or service is needed to benefit from instructional programs. The determination that such a child is eligible for services must be made on an individual basis by a group of individuals from the child's LEA and area education agency (AEA).

Public agencies in Iowa are not required to provide FAPE to the following children and youth.

1. Youth with disabilities who reach the age of 21.
2. Students who have graduated from high school with a regular high school diploma. Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice. However, students who have graduated, but have not been awarded a regular diploma, continue to be eligible in Iowa to receive FAPE if they are under 21 years of age.

The delivery of required special education and related services to children with disabilities involves the SEA, AEAs and LEAs. Other public agencies in this State with responsibilities for the delivery of educational services to children with disabilities include the Iowa Department of Corrections, Iowa Braille and Sight Saving School, Iowa School for the Deaf, and those facilities operated by the Iowa Department of Human Services. The educational programs provided children with disabilities by all agencies are under the general supervision and conform to educational standards established by the Department of Education.

The State of Iowa has established rules and regulations governing the delivery of special education and related services to children with disabilities in the school systems of the State. These rules establish basic requirements for the establishment and maintenance of appropriate instructional and support service programs. They also address FAPE for children suspended or expelled from school. Additionally, standards relating to the licensure of all instructional and support service personnel have been established and approved by the Iowa Board of Educational Examiners. The SEA has the primary responsibility for auditing compliance by all agencies with the provisions of the aforementioned rules and standards.

Privately operated schools and privately operated residential schools providing educational services for children with disabilities are subject to program approval by the SEA and must comply with all applicable rules and standards relating to the delivery of educational services.

In accordance with this stated policy, all children with disabilities between the ages of birth and 21 have a free appropriate public education available to them. Public education for regular education students is available for students between the ages of five and 21 years of age.

Serving students to the age of 21 is consistent with Iowa law that defines school age as being "persons between five and twenty-one years of age." State law also requires school boards to provide special education programs and services for all children requiring special education, thus mandating a free and appropriate public education for students with disabilities who are age birth to five.

It is the policy of the State of Iowa that, should federal statute or regulation be amended to add a mandatory provision not contained in these policies or add a new prohibition of an activity required or permitted by these policies, these policies shall be construed to be consistent with the new federal statute or regulation, pending amendment of these policies.\

II. FULL EDUCATIONAL OPPORTUNITY GOAL

The State Board of Education hereby reaffirms the goal of providing a full educational opportunity to all children with disabilities, ages birth through 21, within the state of Iowa.

The Iowa Rules of Special Education require agencies to provide a full continuum of placements and services to students requiring special education.

To facilitate implementation of the goal, the Iowa Department of Education gathers information from local school districts and other agencies providing services for children with disabilities. This information includes:

- a) number, age, disability, and location of children with disabilities receiving special education services;
- b) number, age, disability, and location of children with disabilities not receiving special education services;
- c) number of personnel employed by public agencies to provide special education services;
- d) number of children with disabilities exiting the educational system; and,
- e) federal, state, and local funds expended for special education and related services.

The state has established an information management system in collaboration with the area education agencies to monitor the implementation of the goal.

III. CHILD FIND

It is the policy of the State of Iowa that all children with disabilities in the age range from birth to 21 years of age residing in this state who are in need of special education and related services are identified, located, and evaluated. A comprehensive child identification system exists in the state that makes it possible to ascertain the number of children with disabilities who are receiving special education and related services. These provisions apply to all Iowa children, including children attending private schools and children who are homeless or wards of the state.

The AEAs and LEAs shall be responsible for ensuring:

1. testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services will be selected and administered so as not to be racially or culturally discriminatory.
2. materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so
3. no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

Existing state legislation governing the provision of, and financial support for, special education instructional and support service programs requires the State Education Agency (SEA) in Iowa to assume responsibility for coordinating the planning and implementation of child find policies and procedures.

The delivery of special education instructional and support services to children with disabilities in Iowa is a cooperative endeavor involving state, area education agencies (AEAs), local education agencies (LEAs) and local public and private agencies. The primary responsibility for providing such educational services is assigned to the public educational agencies of Iowa through statutes mandating the education of children with disabilities. Specific statutory requirements relating to the delivery of special education services make it imperative that the Iowa Department of Education, Bureau of Student and Family Support Services, be the principal administering agency of the child find system. Responsibilities of AEAs and LEAs are set forth in Iowa Administrative Code.

AEAs and LEAs may identify students with disabilities using either a categorical or noncategorical model. In such circumstances where a student with a disability is identified as an "eligible individual," each AEA shall develop their own procedures for such identification. The critical passage of Iowa policy reads: "Each AEA shall develop written policies pertinent to the provision of special education and related services, and shall make such policies available to the Department upon request. While AEAs may identify students as eligible for special education without designating a specific disability category, it is recognized that in certain circumstances the educational diagnosis of a specific disability, such as autism or sensory impairment, may enhance the development and ongoing provision of an appropriate educational program".

The present system for monitoring the number of children with disabilities within each category is a computerized system used to determine which children are receiving special education and related services. The Department annually reviews information from Iowa's information management system to determine the effectiveness of policies and procedures related to child

find. If anomalies or disproportionality issues appear in the data or if other information suggests needed modifications in the system, the Department initiates corrective action within the system. The Iowa Department of Education acknowledges that the collection of data to meet child find requirements is subject to the confidentiality requirements of IDEA.

Iowa code requires AEAs to be accredited by the state. The accreditation process outlined in code calls for AEAs to be monitored on a cycle. AEAs are required to have a plan in place that outlines the agency's actions to meet the child find standards identified by the State. The plan and the monitoring activities enable the Department of Education to evaluate the effectiveness of the identification process.

In addition, the State of Iowa and AEAs will monitor annually the local school district child find activities through the state's monitoring process.

Iowa's child find system is an ongoing program involving LEAs, AEAs, and the SEA. Initial identification/referral activities are conducted with the Iowa Department of Human Services, the Iowa Department of Public Health, public and private preschool facilities, local hospitals, public and private family and pediatric physicians, and a variety of parent support groups that function within the geographic boundaries of each AEA. These agencies receive periodic updates that describe referral procedures to assist in the child find process. According to Iowa code, upon request the Iowa Department of Public Health shall furnish information obtained in from birth certificates relative to the name, address, and address in of any case of developmental disability and the child specialty clinics will provide the same type of information. The Department of Human Services provides for the evaluation and identification of students with disabilities in each of their facilities. In addition, the Department of Human Services refers students who are suspected of being students with disabilities to the area education agencies. These activities go on throughout the entire year.

The Iowa Department of Education is the lead agency in Iowa for Part C of IDEA. The Department works with a contractor to provide a comprehensive statewide informal referral service.

IV. INDIVIDUALIZED EDUCATION PROGRAM

It is the policy of the State of Iowa to require the development of individualized education programs (IEPs) for children requiring special education and related services. All public and private agencies that provide special education are governed by policies, rules, statutes and procedures for the establishment, review, and revision of IEPs for all children requiring special education and for the maintenance of IEP records.

The Iowa Department of Education is not currently providing direct services to any child. However, should it become necessary for the State Education Agency (SEA) to provide services, the services will be provided in accordance with IDEA's requirements.

An IEP or individualized family service plan (IFSP) is a written statement for each individual with a disability that is the basis for a public education agency providing special education and related services in Iowa. No public special education or related services may be provided until an IEP or IFSP has been written and agreed upon by the IEP or IFSP team.

A document containing all of the elements required by Part C and Part B shall be provided to children with disabilities ages birth through 2. At the age of 3, students with disabilities have an IEP.

All IEPs and IFSPs must be implemented as soon as possible following the determination that a student requires special education. A meeting to develop an IEP must be held within 30 days of a determination of need and an IEP shall be in effect for every eligible individual at the beginning of the school year. In addition to holding all agencies responsible for conducting meetings, Iowa Rules of Special Education require that IEP meetings be held within a reasonable time, and that the IEP team review the IEP not less than annually. The IEP must be accessible to all who have responsibility for its implementation. Each local education agency (LEA) must have a policy to ensure that there is a procedure in place for each provider to have access to the IEP.

Public agencies ensure that the IEP team for each child with a disability includes:

1. the parents of the child;
2. not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment)
3. not less than one special education teacher of the child, or if appropriate, at least one special education provider of the child;
4. a representative of the public agency who is qualified to provide or supervise the provisions of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general education curriculum, and is knowledgeable about the availability of resources of the public agency;
5. an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in 2 through 6 of this paragraph;
6. at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate – The determination of the knowledge or special expertise of any individual shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP team; and
7. if appropriate, the child.

A public agency may designate another public agency member of the IEP team to also serve as the agency representative (IEP team participant #4 above) if they satisfy the criteria specified for that role.

An IEP team member may be excused from attending an IEP meeting if the parents and public agency agree that the individual's attendance is not necessary because that member's curriculum area or related service is not being discussed. This agreement must be in writing.

An IEP team member may be excused from attending an IEP meeting that involves a modification discussion of the member's curriculum area or related service if the parent (in writing) and public agency agree to the excusal and the excused member submits written input prior to the meeting.

The public agency, at the request of the parent, must invite the Part C service coordinator or other representatives of the Part C program to the IEP meeting for a child transitioning from Part C to Part B services.

The public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the student's transition services. If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered. The public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services. It is the policy of the state of Iowa that consent shall be obtained before sharing personally identifiable information with agencies providing or funding transition services.

Iowa Rules of Special Education require that notification regarding IEP meetings be provided to parents. That notification must contain the purpose (including transition), time and location of the meeting, and who will be in attendance. If parents cannot attend, the Iowa Rules of Special Education describe procedures for documenting attempts to involve the parent. If needed, interpreters shall be provided to increase parent participation. Parents will receive a copy of the IEP. In addition, the State of Iowa and area education agencies (AEAs) disseminate information to increase parent participation, offer training for parents, and provide support personnel to accompany parents to meetings.

Each public agency responsible for special education and related services assures that in the development of the IEP all relevant considerations are made to address the needs of the student with a disability. In developing each child's IEP, the IEP team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, the academic, developmental, and functional needs of the child, and as appropriate, the results of the child's performance on any general State or district-wide assessment programs. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider all factors described below.

- In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

- In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
- Consider the racial and ethnic factors that may be contributing to the needs of the child – both prior to and during the determination and development of the IEP;
- In the case of a child who is blind or visually impaired, provide for instruction in Braille reading and writing and the use of Braille unless the IEP team determines, after a functional vision evaluation and an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child. No child will be denied Braille instruction solely because the child has some vision remaining. The instruction in Braille shall be sufficient to enable the child to communicate effectively and efficiently at a level commensurate with his sighted peers of comparable grade level and intellectual functioning.
- Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
- Consider whether the child requires assistive technology devices and services.

The IEP team shall consider a child's IFSP when developing an appropriate program for a child transferring from the Part C program to the Part B program.

The IEP must contain a statement of the child's academic achievement and functional performance, a statement of measurable annual goals, including academic and functional goals, and a statement of the special education and related services and supplementary aids and services to be provided. These services will be based on peer-reviewed research to the extent practicable. For children with disabilities taking alternate assessments aligned to alternate achievement standards a description of short-term objectives must be included. The IEP must also include an explanation of the extent to which an individual will participate in the general education curriculum and district assessments. Finally, the projected date for the start, frequency, location, duration and monitoring of services must be included in all IEPs.

The IEP must include a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of a child on State and district-wide assessments, and if the IEP team determines that the child shall take an alternate assessment, a statement of why the child cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the child.

The IEP must include a statement of how the child's progress toward annual goals will be measured and when periodic reports on progress will be provided (such as quarterly or other periodic reports concurrent with regular report cards).

Beginning not later than the IEP in effect when the child turns 14 and annually thereafter, the IEP must include a statement of appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills, and the transition services (including courses of study) needed to assist the child in reaching those goals. The IEP must include a statement that the child has been informed of rights transferring at the age of majority at least one year before

rights transfer. Special rules concerning IEPs for students with disabilities convicted as adults and incarcerated are included in the Iowa Rules of Special Education.

If a participating agency fails to provide agreed-upon transition services contained in the IEP of a student with a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objective and, if necessary, revising the student's IEP.

The State of Iowa provides each public agency with an IEP form that meets all the above requirements. If an agency chooses to use any other form or make changes to the state form, it must be approved by the state. The state also provides guidance to public agencies by providing technical assistance guides regarding IEP development and requirements.

Changes to the IEP, after the annual meeting, can occur without a meeting, if the parents and LEA agree and develop a written document to amend or modify the IEP. Amendments to IEPs can be made by the entire IEP team or by just the parent and LEA (as in § 1414(d)(3)(D)) and that the IEP can be amended, rather than completely redrafted, unless the parent requests a revised copy with the amendments incorporated.

LEAs should encourage the consolidation of reevaluation meetings and other IEP meetings.

Nothing is to be construed to require that IEPs include more than what is explicitly provided for in 20 U.S.C. 1414 as well as the provision in prior law that an IEP team need not include information under a component of an IEP that is already included elsewhere in the IEP.

For children transferring school districts within the same state, the new LEA provide FAPE, including services consistent with the previous district's IEP, in consultation with the parents, until the new LEA either adopts the prior IEP or develops a new IEP.

For children transferring from one State to another, the new LEA provide FAPE, including services consistent with the previous district's IEP, in consultation with the parents, until the new LEA conducts an evaluation, and if needed, develops a new IEP.

For a child who is transferring into a district, the new LEAs must take reasonable steps to promptly obtain the child's records and the 'old' district take reasonable steps to promptly respond to those requests.

The public agency, when it makes a placement in a private school, assures that a representative of the private school facility attends the IEP meeting. If the representative cannot attend, other methods will be used to ensure participation by the private school or facility, such as individual or conference telephone calls. IEPs for individuals in private schools must be revised and reviewed according to the Iowa rules. The Iowa Rules of Special Education specify that responsibility for compliance remains with the public agency.

The Iowa Rules of Special Education do not hold any agency, teacher, or other person accountable “if an individual does not achieve the growth projected” in the IEP. Parents retain rights to ask for revisions or invoke due process procedures. To monitor the implementation of individual education programs, the SEA and AEAs utilize monitoring and evaluation procedures. The monitoring and evaluation procedures include a comprehensive data review of the agency's policies, procedures, and documentation that assures compliance with all State and Federal statutes and regulations relating to the development and implementation of IEPs for children with disabilities served by the agency.

V. LEAST RESTRICTIVE ENVIRONMENT

It is the policy of the state of Iowa, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

It is also the policy of the State of Iowa to annually examine placement/least restrictive environment information for students with disabilities. These data are disaggregated by race/ethnicity to ensure that students regardless of races/ethnicity are being educated, to the maximum extent appropriate, with children who are not disabled.

In the case of a determination of significant disproportionality with respect to placement/least restrictive environment results the state shall review and if appropriate revise policies, procedures, and practices pertaining to the placement of children with disabilities.

The State of Iowa requires local education agencies (LEAs) and state operated educational programs to provide or make provision, as an integral part of public education, for a free and appropriate public education sufficient to meet the needs of all children requiring special education. This is not to be construed as encouraging separate facilities or segregated programs designed to meet the needs of children requiring special education when the children can benefit from all or part of the education program as offered by the local school district. To the maximum extent possible, children requiring special education shall attend regular classes and shall be educated with children who do not require special education. Whenever possible, hindrances to learning and to the normal functioning of children requiring special education within the regular school environment shall be overcome by the provision of special aids and services.

Special classes, separate schooling or other removal of children requiring special education from the regular educational environment, shall occur when, and to the extent that the nature or severity of the educational disability is such that education in regular classes, even with the use of supplementary aids and services cannot be accomplished satisfactorily. For those children who cannot adapt to the regular educational or home living conditions, the Department of Human Services shall provide residential or detention facilities and AEA shall provide special education programs and services. The AEAs shall cooperate with the Iowa Board of Regents to provide the services required.

Iowa's Rules of Special Education further interpret and define the least restrictive environment as follows:

Each agency shall ensure that, to the maximum extent appropriate, children requiring special education are educated with individuals who do not require special education and that special classes, separate schooling or removal of children requiring special education from the general education environment occurs only if the nature or severity of the individual's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

When developing an eligible individual's IEP, the IEP team shall consider the following questions regarding the provision of special education and related services:

- a) What accommodations, modifications and adaptations does the individual require to be successful in a general education environment?
- b) Why can't these accommodations, modifications and adaptations be provided within the general education environment?
- c) What supports are needed to assist the teacher and other personnel in providing these accommodations, modifications and adaptations?
- d) How will providing special education services and activities in the general education environment impact this individual?
- e) How will providing special education services and activities in the general education environment impact other students?

Iowa Department of Education policy assures that agencies providing special education and related services make a continuum of alternative placements and services available to meet the needs of children with disabilities. To the maximum extent appropriate to the needs of the eligible individual, special education and related services shall be designed and delivered so as to maintain the individual in the general education environment.

The general education environment includes, but is not limited to, the classes, classrooms, services, and nonacademic and extracurricular services and activities made available by an agency to all students. For preschool children who require special education, the general education environment is the environment where appropriate activities naturally occur for children of similar age without disabilities.

Instructional services are the specially designed instruction and accommodations provided by special education instructional personnel to eligible individuals. These services are ordinarily provided by the LEA, but in limited circumstances, may be provided by another LEA, the AEA or another recognized agency through contractual agreement. An agency may choose to use the program models and related requirements for delivering instructional services, or the development process for creating a delivery system of instructional services.

An agency must use the following development process for creating a system for delivering instructional services. The delivery system shall meet the continuum of services and placements requirement and shall provide for the following:

1. The provision of accommodations and modifications to the general education environment and program, including modification and adaptation of curriculum, instructional techniques and strategies, and instructional materials.
2. The provision of specially designed instruction and related activities through cooperative efforts of special education teachers and general education teachers in the general education classroom.
3. The provision of specially designed instruction on a limited basis by a special education teacher in the general classroom or in an environment other than the general classroom, including consultation with general education teachers.
4. The provision of specially designed instruction to eligible individuals with similar special education instructional needs organized according to the type of curriculum and instruction to be provided, and the severity of the educational needs of the eligible individuals served.

The delivery system shall be described in writing and shall include the following components:

1. A description of how services will be organized and how services will be provided to

eligible individuals.

2. A description of how the caseloads of special education teachers will be determined and regularly monitored to ensure that the IEPs of eligible individuals are able to be fully implemented.
3. A description of the procedures a special education teacher can use to resolve concerns about caseload. The procedures shall specify timelines for the resolution of a concern and identify the person to whom a teacher reports a concern. The procedures shall also identify the person or persons who are responsible for reviewing a concern and rendering a decision, including the specification of any corrective actions.
4. A description of the process used to develop the system, including the composition of the group responsible for its development.
5. A description of the process that will be used to evaluate the effectiveness of the system.
6. A description of how the delivery system will meet the targets identified in the state's performance plan.
7. A description of how the delivery system will address needs identified by the state in any determination.

The following procedures shall be followed by the agency:

1. Before initiating the development of the delivery system, the LEA board shall approve such action and the LEA personnel and parents who will participate in the development of the alternative.
2. The delivery system shall be developed by a group of individuals that includes parents of eligible individuals, special education and general education teachers, administrators, and at least one AEA representative. The AEA representative is selected by the director.
3. The director shall verify that the delivery system is in compliance with these rules prior to LEA board adoption.
4. Prior to presenting the delivery system to the LEA board for adoption, the group responsible for its development shall provide an opportunity for comment on the system by the general public. In presenting the delivery system to the LEA board for adoption, the group shall describe the comment received from the general public and how the comment was considered.
5. The LEA board shall approve the system prior to implementation.

Special education may be provided to eligible individuals on an itinerant basis. These services are usually provided by the AEA but may be provided by contractual agreement, subject to the approval of the AEA board, by the LEA or another qualified agency. Special education may be provided on an itinerant basis whenever the number, age, severity, or location of eligible individuals to be served does not justify the provision of professional personnel on a full-time basis to an attendance center.

Special education shall be provided to eligible individuals whose condition precludes their participation in the general and special education provided in schools or related facilities. Home and hospital instructional services shall be provided ordinarily by LEAs. Home and hospital support services shall be provided ordinarily by AEAs. The provision of services in a home or hospital setting shall satisfy the following:

- a) The service and the location of the service shall be specified in the individual's IEP.
- b) The status of these individuals shall be periodically reviewed to substantiate the continuing need for and the appropriateness of the service.
- c) Procedural safeguards shall be afforded to individuals receiving special education through itinerant services in a home or hospital setting. A need for itinerant services in a home or

hospital setting must be determined at a meeting to develop or revise the individual's IEP, and parents must give consent or be given notice, as appropriate.

Supplementary aids and services to support least restrictive environment requirements must be provided as needed for students receiving special education services. These may include intensive short-term specially designed instruction; educational interpreters; readers for individuals with visual impairments; special education assistants; special education assistants for individuals with physical disabilities for assistance in and about school, and for transportation; materials; and specialized or modified instructionally related equipment for use in the school.

Special schools for eligible individuals who require special education outside the general education environment may be maintained by individual LEA; jointly by two or more LEAs; by the AEA; jointly by two or more AEAs; by the state directly; or by approved private providers.

The State of Iowa assures that:

1. The services of each child requiring special education are individually determined.
2. The services are reviewed on an annual basis.
3. The services are based on the child's individualized education program.
4. The services are provided in the school that he/she would normally attend if not disabled unless the child's individual education plan requires some alternative arrangements.
5. That the services stipulated by the individualized education program will not produce a harmful effect on the child or reduce the quality of services required to meet his/her special education needs.
6. The services are provided in age-appropriate regular classrooms and the individual is not removed from general education settings solely because of needed modifications to the general education curriculum.

The State of Iowa also assures that requirements of least restrictive environment are met in preschool programs for children with disabilities. The Bureau of Student and Family Support Services provides technical assistance and staff development activities on the topic of preschool integration.

The State of Iowa assures that in providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each child with a disability participates with children who do not have disabilities to the maximum extent appropriate to the needs of that child.

The State of Iowa requires written documentation for the review and satisfactory answers to following questions on IEPs of all students in separate facilities that solely serve eligible individuals:

1. What are the reasons that the eligible individual cannot be provided an educational program in an integrated school setting?
2. What supplementary aids and services are needed to support the eligible individual in the special education program?
3. Why is it not possible to provide these aids and services in an integrated setting?
4. What is the continuum of placements and services available to the eligible individual?

The State of Iowa assures that all personnel in private and public agencies responsible for implementing and supporting the requirements LRE (a) are fully informed about their

responsibilities for implementing LRE, and (b) are provided with technical assistance and training necessary to assist them in this effort.

The State of Iowa monitors compliance with requirements of least restrictive environment in several ways. The State of Iowa conducts monitoring in one third of the AEAs each year. Interviews with school personnel and student file reviews provide information to document compliance with least restrictive environment requirements. The State of Iowa assures that each annual program plan will include procedures that ensure that students are educated in the least restrictive environment. Each AEA and LEA must provide the state the number of children with disabilities in the state, within each disability category, who are participating in regular education programs and the number who are in separate classes or separate school facilities and otherwise removed from the regular education environment.

If there is evidence that a public agency makes placements that are not consistent with the least restrictive environment, the Iowa Department of Education will review the public agency's justification for its actions and will assist in planning and implementing any necessary corrective action.

VIII. CONFIDENTIALITY

It is the policy of the State of Iowa that personally identifiable information maintained by the State Education Agency (SEA), area education agencies (AEAs), and local education agencies (LEAs) for students with disabilities is confidential and protected by FERPA's requirements.

Before any major identification, location, or evaluation activity, the LEA and AEA publish the notice or announcement in newspapers or other media, or both with circulation adequate to notify parents throughout the AEA of the activity. The Iowa Department of Education publishes an annual notice to parents in the principal newspaper of Iowa.

The State of Iowa, area education agencies, and local school districts give notice that is adequate to fully inform parents about the requirements of confidentiality including:

5. A description of the extent that the notice is given in the native languages of the various population groups in the State;
6. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
7. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
8. A description of all of the rights of parents and children regarding this information,

The following procedures have been established to protect the confidentiality of child identification data that is collected by this state from AEAs and LEAs. The Iowa Department of Education and Area Education Agencies' Information Management System (IMS) is a cooperative effort designed to meet the data management needs of the DE and AEAs. The IMS maintains data that is accurate, current and reflective of the quality and quantity of special education services provided. In addition to meeting data reporting requirements, the IMS also is designed to provide information needed to enhance service delivery and program improvement. The Chief of the Bureau of Student and Family Support Services is responsible for the confidential maintenance and management of all data relating to children with disabilities that are collected by the Iowa Department of Education.

1. The Chief has the authority to designate a person or persons to serve as custodian of all data collected and to designate those persons who will legitimately have access to such data. Permission for the release of any information held in this data bank must be obtained from the Bureau Chief. Any data released by the designated person will not contain individually identifiable information, and would usually consist only of summary reports presenting usable totals.
2. All child identification data received by the SEA from AEAs and LEAs is in coded form. The local educational level official or designated person codes the data. This official is the AEA Director of Special Education who by law is assigned responsibility for assuring the appropriate educational placement of children with disabilities. The format of the coding system and its utilization are known only by the responsible officers at the LEA who prepare and submit the coded data to the SEA.
3. To ensure the confidentiality of the identity of each student, an alphanumeric code has been developed that obscures any personally identifiable data or information. It allows individual students to be distinguished only by ID code number at the state level. Names of individual

children can only be obtained from the local educational agency and not from data submitted to the SEA. This alphanumeric system allows the collection of adequate data on an individual basis without jeopardizing the confidentiality of a student's record. It does, however, permit the SEA to collect sufficient data on a statewide basis to ensure efficient program administration and monitoring.

4. Other data pertaining to a student that are collected include the resident LEA, the LEA sponsoring the instructional program in which the student is enrolled, and the type of disability.
5. The disposition and destruction of data source documents is under the direct supervision of the assigned data custodian. All such documents are destroyed through a shredding process.

Right to Inspect Records.

Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing relating to the identification, evaluation, placement or provision of FAPE and, in no case, more than 45 days after the request has been made.

The right to inspect and review education records includes –

- f) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
- g) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records;
- h) The right to have a representative of the parent inspect and review the records.

An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Record of Inspection.

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency). The record shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

Record location.

Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. A participating agency may not charge a fee to search for or to retrieve information under this part.

Amending records.

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. Any explanation placed in the records of the child under this section must (1) be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and (2) if the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

Disclosure.

Except for disclosures authorized under FERPA regulations, parental consent must be obtained before personally identifiable information is

1. disclosed to anyone other than officials of participating agencies collecting or using the information; or,
2. used for any purpose other than meeting a requirement of federal regulations.

An educational agency or institution may not release information from education records to participating agencies without parental consent unless authorized to do so. Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services. If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence. If a parent refuses to give permission required by this policy, the participating agency shall attempt to seek resolution.

Responsibility for protecting confidentiality.

Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. To assure protection:

1. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.
2. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures.

3. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Data destruction.

The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Transfer of rights at age of majority.

The State of Iowa shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability. The rights of parents regarding education records are transferred to the student at age 18. If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, the rights regarding educational records must also be transferred to the student. However, the public agency must provide notice regarding the transfer to the student and the parents.

Monitoring procedures for confidentiality.

The Iowa Department of Education through the process of monitoring certification assures that each participating district/agency receiving and/or eligible for funds from federal sources has all such policies and procedures, as described herein, in effect. In the event a district/agency fails to comply with the provisions of this part, the Department of Education may initiate actions to withhold the payment of federal funds available to the district/ agency under IDEA and/or the payment of state funds available to support the special education services.

XIII. PERSONNEL QUALIFICATIONS

It is the policy of the State of Iowa to ensure that personnel necessary to carry out the Act are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

Further, it is the policy of the State of Iowa to require certification, licensing, and professional recognition qualifications for all personnel employed to provide special education and related services. These requirements are set forth in rules of the Iowa Board of Educational Examiners.

The qualifications for related services personnel and paraprofessionals:

- are consistent with State-approved certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;
- ensure that related services personnel who deliver services in their discipline or profession meet the requirements of the previous item and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- allow paraprofessionals and assistants who are appropriately trained and supervised in accordance with Iowa law to be used to assist in the provision of special education and related services under this part to children with disabilities.

The qualifications for special education teachers, as outlined below, meet the highly qualified requirements of the No Child Left Behind Act of 2001 and the Individuals with Disabilities Education Act of 2004. The State of Iowa ensures that each person employed as a special education teacher in the state who teaches elementary school, middle school or secondary school is highly qualified by the end of the 2005-2006 school year.

The term "highly qualified" in Iowa means for teachers to demonstrate competence in the subject areas they teach through appropriate licensure and endorsement. Additionally, a highly qualified special education teacher:

- has obtained full State certification as a special education teacher;
- has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- holds at least a bachelor's degree.

Iowa special education teachers who teach core academic subjects exclusively to children who are assessed against alternate achievement standards may either demonstrate competence in the subject area they teach by meeting the requirements outlined above as an elementary or secondary teacher, or, in the case of instruction above the elementary level, have subject matter knowledge appropriate to the level of instruction being provided. Special education teachers who teach 2 or more core academic subjects exclusively to children with disabilities may meet the requirements outlined above.

Special education teachers who are not new to the profession must meet the highly qualified requirements by the end of the 2005-06 school year. New special education teachers who teach multiple subjects and who are highly qualified in mathematics, language arts, or science, must demonstrate competence in the additional core academic subjects in which they teach not later than 2 years after the date of employment.

The State of Iowa has adopted a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

XVIII. PUBLIC PARTICIPATION

The State of Iowa provides the general public, including individuals with disabilities and parents of individuals with disabilities, a full opportunity to review and present comments on proposed policies and procedures.

When proposing to adopt new policies and procedures, the State of Iowa provides public notice in newspapers and other media.

The notice is provided enough in advance to allow interested parties a reasonable opportunity to participate in public hearings. Policies and procedures are made available for comment for a period of at least 60 days following the notice. Public notice includes detailed information about the proposed policies and procedures and allows the general public to understand the purpose and scope of the proposal and its relation to serving eligible individuals. The notice also includes information about the availability of proposed policies and procedures for public review; the date, time and location of public hearings; a description of the procedures for submitting written comments; and the timetable for submitting policies and procedures to the Secretary for review. Public hearings are conducted at times and places that allow interested parties throughout the State a reasonable opportunity to participate. The Department of Education uses technology to facilitate public participation.

Following public hearings and before adoption of proposed policies and procedures, the State of Iowa reviews and considers all public comment and makes any necessary modifications in proposed policies and procedures.

Following the Secretary's approval of policies and procedures, the State of Iowa gives notice in newspapers and other media of such approval. This notice provides information regarding places throughout the state where the policies and procedures are available to any interested person.

XXIII. PROHIBITION ON MANDATORY MEDICATION

It is the policy of the State of Iowa, Department of Education to prohibit State and Local education agency personnel from requiring a child to obtain a prescription for a substance covered by the Federal Controlled Substances Act as a condition of:

- (a) Attending school,
- (b) Receiving an evaluation, or
- (c) Receiving services under IDEA.

School personnel and teachers are permitted to consult and share with parents and guardians their classroom-based observations regarding student:

- (a) Academic and functional performance, or
- (b) Behavior in the classroom or school, or
- (c) Need for evaluation for special education or related services.

General, Technical Changes to All Policies

The Iowa Department of Education proposes making the following non-substantive changes to all of its special education policies.

1. Change the name of the Bureau of Children, Family and Community Services to the Bureau of Student and Family Support Services.
2. Remove the legal references from each policy.